

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DWAYNE LAMONT BURGESS,

Petitioner,

v.

PEOPLE OF THE STATE OF  
CALIFORNIA,

Respondent.

No. 2:22-cv-00573-DAD-DMC (HC)

ORDER DENYING PETITIONER'S MOTION  
FOR RECONSIDERATION

(Doc. No. 31)

Petitioner Dwayne Lamont Burgess is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 23, 2022, the undersigned issued an order adopting the assigned magistrate judge's findings and recommendations (Doc. No. 17) and dismissing this action due to petitioner's failure to state a cognizable claim for federal habeas relief. (Doc. No. 25.) On January 30, 2023, petitioner filed the pending motion for reconsideration of the court's November 23, 2022 order. (Doc. No. 31.)

Federal Rule of Civil Procedure 60(b) governs the reconsideration of final orders of the district court. Rule 60(b) permits a district court to relieve a party from a final order or judgment on grounds of: "(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence . . .; (3) fraud . . . of an adverse party; (4) the judgment is void; (5) the judgment has

1 been satisfied . . . or (6) any other reason justifying relief from the operation of the judgment.”  
2 Fed. R. Civ. P. 60(b). “A motion for reconsideration should not be granted, absent highly unusual  
3 circumstances, unless the district court is presented with newly discovered evidence, committed  
4 clear error, or if there is an intervening change in the controlling law,” and it “may *not* be used to  
5 raise arguments or present evidence for the first time when they could reasonably have been  
6 raised earlier in the litigation.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571  
7 F.3d 873, 880 (9th Cir. 2009) (internal quotations marks and citations omitted) (emphasis in  
8 original).

9 Here, petitioner’s motion does not identify any basis under Rule 60(b) upon which this  
10 court should reconsider its order. Petitioner does not contest the substance of the court’s  
11 November 23, 2022 order or the court’s decision to dismiss his petition for writ of habeas corpus.  
12 Rather, in his single-page motion, petitioner merely lists a few purported reasons that his motion  
13 for reconsideration is based on, including that “judgment has been satisfied” and “judgments  
14 discharged.” (Doc. No. 31 at 1.) But none of petitioner’s reasons have any bearing on the  
15 pending motion for reconsideration. Accordingly, petitioner has not articulated any basis for the  
16 court to reconsider its November 23, 2022 order.

17 Accordingly,

- 18 1. Petitioner’s motion for reconsideration (Doc. No. 31) is denied;
- 19 2. This case shall remain closed; and
- 20 3. No further filings will be entertained by the court in this closed case.

21 IT IS SO ORDERED.

22 Dated: February 13, 2023

23   
UNITED STATES DISTRICT JUDGE